

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY NETWORK	)	
LIMITED LIABILITY COMPANY FOR THE	)	
ISSUANCE OF A CERTIFICATE OF PUBLIC	)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT	)	2015-00231
A TOWER IN FLOYD COUNTY, KENTUCKY	)	

ORDER

On July 27, 2015, East Kentucky Network, LLC, d/b/a Appalachian Wireless (“Applicant”) filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 310 feet in height, with attached antenna, to be located at Buckhorn Road, Beaver, Floyd County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 24’ 3.3” by West Longitude 82° 40’ 4.86”.

The Applicant has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and a licensed professional engineer has certified the plans.

Pursuant to 807 KAR 5:063, the Applicant filed statements of having provided the required notifications regarding the proposed construction. Pursuant to 807 KAR 5:063, Section 1, the Applicant filed evidence that the county judge/executive and all property

owners within 500 feet and contiguous to the cell site have been notified of the proposed construction. The notices solicited any comments and informed the recipients of their right to request intervention.

On August 11, 2015, the Commission received a letter from Todd Tackett on behalf of Elk Horn Coal Company, LLC (“Elk Horn Coal”) stating that Elk Horn Coal owns surface property just adjacent to the proposed tower and the coal that underlies the site location. Mr. Tackett stated that Elk Horn Coal Company was evaluating the underlying coal and requested the Commission consider how the proposed construction could impact Elk Horn Coal’s coal mining operation in this area.

The Commission issued a response letter on August 18, 2015, giving Elk Horn Coal 30 days after it reviewed the required response from the Applicant to request full intervention in this proceeding if further participation was required. Through a letter received on December 23, 2015, Elk Horn Coal stated that it elects not to intervene and that it waives any right to intervene.

The Applicant has filed applications with the Federal Aviation Administration (“FAA”) and the Kentucky Airport Zoning Commission (“KAZC”) seeking approval for the construction and operation of the proposed facility. Both the KAZC and FAA applications have been approved.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the Applicant has demonstrated that a facility is necessary to provide adequate utility service and that, therefore, a Certificate of Public Convenience and Necessity to construct the proposed facility should be granted.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, the Applicant should notify the Commission if it does not use this antenna tower to provide service in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by the Applicant.

IT IS THEREFORE ORDERED that:

1. The Applicant is granted a Certificate of Public Convenience and Necessity to construct a wireless telecommunications facility. The proposed facility consists of a self-supporting antenna tower not to exceed 310 feet in height, with attached antenna, and is to be located at Buckhorn Road, Beaver, Floyd County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 24' 3.3" by West Longitude 82° 40' 4.86".

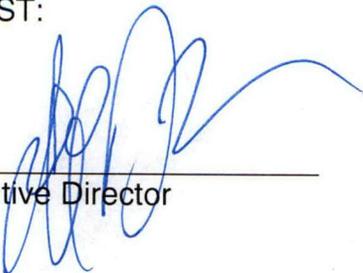
2. The Applicant shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of three months in the manner authorized by this Order.

3. Documents filed, if any, in the future pursuant to ordering paragraph 2 herein shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission

ENTERED  
JAN 06 2016  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:



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Executive Director

Case No. 2015-00231

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